

Appl. No. 10/070,939
Amdt. AF dated October 25, 2004
Reply to Final Office Action of August 30, 2004

REMARKS

Applicant has carefully reviewed the Final Office Action dated August 30, 2004. Currently claims 1-3, 5 and 8-16 are pending in the application, wherein claims 1-3, 5 and 8-16 have been rejected by the Examiner. Claim 1 has been amended to include all the limitations of claim 3 in order to advance prosecution of the application, thus no new matter has been presented. Consequently, claim 3 has been cancelled from the application. Applicant respectfully requests full consideration of this amendment, asserting that entry of the amendment will not raise the issue of new matter or present new issues requiring further consideration or search. See M.P.E.P. § 714.13. Additionally, the specification has been amended with this paper to bring the specification into conformance with the drawings as originally filed. Specifically, the specification has been amended to more clearly identify the orientation of the specified angles of the curved portions of the flexible shaft. Applicant asserts no new matter is added with this amendment. Favorable consideration of the amendments in view of the following remarks is respectfully requested in order to bring the application to issuance.

As a preliminary matter, Applicant brings to the Examiner's attention that formal drawings were submitted on February 6, 2003 and a Replacement Sheet of drawings was submitted on March 5, 2004, but there has been no indication of approval of the drawings by the Examiner or the Official Draftsman. Applicant requests that the Examiner/Official Draftsman indicate approval or non-approval of the formal drawings with the next PTO communication.

Claims 1-3, 5, 8, 9, 11, 15 and 16 stand rejected under 35 U.S.C. §102(e) as being anticipated by Rosenthal et al. (U.S. Patent No. 6,285,903). Applicant respectfully traverses this rejection. Claim 1 has been amended to include the limitations of claim 3. Rosenthal et al. fail to teach what is claimed in amended claim 1. Namely, Rosenthal et al. fail to teach a flexible shapeable shaft having a first bent section having a first curvature K_1 and a second bent section proximal the first bent section having a second curvature K_2 , wherein the radius of the first curvature K_1 of said first bent section is smaller than the radius of the second curvature K_2 of said second bent section. Rosenthal et al. is silent concerning the radius of curvature of a catheter having at least two segments forming an angle with respect to an adjacent portion. As shown in Fig. 1A, a catheter 10 having two bent sections taught by Rosenthal et al. has two portions having alike radii of curvature at each angle portion. At no point do Rosenthal et al.

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suggest a catheter having at least two bent portions having dissimilar radii of curvature. If the Examiner wishes to renew this rejection, Applicant requests the Examiner to distinctly point out which portion of Rosenthal et al. the Examiner is relying on in upholding the rejection. See M.P.E.P. § 707.07(f). A catheter having at least two bent sections having dissimilar radii of curvature may be advantageous during a medical procedure. For example, a catheter wherein the radius of curvature of the first bent section is smaller than the radius of curvature of the second bent section may reduce the risk of buckling the proximal curvature segment, thereby making the proximal curvature segment better adapted to transfer an axial movement to the distal curvature and the tip of the catheter. See specification at page 3, lines 1-4. Advantages such as these may not be accomplished with the device taught by Rosenthal et al.

Applicant asserts that claim 1 is patentable over Rosenthal et al. for at least the reasons stated above. Claims 2, 5, 8, 9, 11, 15 and 16 depend from claim 1 and add significant additional elements; therefore, they are also believed to be in condition for allowance.

Claim 10 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Rosenthal et al. (U.S. Patent No. 6,285,903) in view of Hassett (U.S. Patent No. 6,156,018). Applicant respectfully traverses this rejection. Claim 10 depends from claim 1 and adds significant additional elements. As stated above, claim 1 is believed patentable over Rosenthal et al. at least because Rosenthal et al. fail to teach at least two bent sections having dissimilar radii of curvature. Hassett fails to remedy the shortcomings of Rosenthal et al. Therefore, because each and every element of the claimed invention is not taught or suggested by the combination, no *prima facie* case of obviousness has been established. Applicant believes claim 10 is currently in condition for allowance.

Claims 12, 13 and 14 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Rosenthal et al. (U.S. Patent No. 6,285,903) in view of Abrams et al. (U.S. Patent No. 5,637,089). Applicant respectfully traverses this rejection. Claims 12, 13 and 14 depend from claim 1 and add significant additional elements. As stated above, claim 1 is believed patentable over Rosenthal et al. at least because Rosenthal et al. fail to teach at least two bent sections having dissimilar radii of curvature. Abrams et al. fail to remedy the shortcomings of Rosenthal et al. Therefore, because each and every element of the claimed invention is not taught or

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suggested by the combination, no *prima facie* case of obviousness has been established. Applicant believes claims 12, 13 and 14 are currently in condition for allowance.

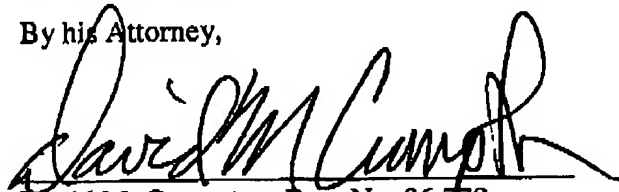
Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

Michael Schwager

By his Attorney,

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